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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,703	01/29/2004	George N. P. Hansen	950222.00003	5648
26710	7590	10/13/2005	EXAMINER	
QUARLES & BRADY LLP 411 E. WISCONSIN AVENUE SUITE 2040 MILWAUKEE, WI 53202-4497			BINDA, GREGORY JOHN	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 10/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/767,703		HANSEN ET AL.	
	Examiner		Art Unit	
	Greg Binda		3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 and 9 is/are allowed.
- 6) ☒ Claim(s) 1-5, 10-15 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 6, 7 and 16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 August 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

2. The replacement drawings filed August 30, 2005 are objected to because:
 - a. Nylon/plastic bushing 44 & 58 are not drawn with appropriate cross hatching. See MPEP § 608.02 for the appropriate pattern.
 - b. Fig. 2 fails to show the spring 90 acting against the inner guard sleeve 70 as recited in claims 3 & 13.

Claim Objections

3. Claim 17 is objected to as failing to comply with 37 CFR 1.75(i) because elements of the claim are not separated by line indentation.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 10, 17 & 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the

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relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 10 recites that the center guard sleeve 72 has an integral tab that extends radially inward to link the center sleeve with the outer sleeve 74 (see claim 8, lines 12-14). Claim 17, lines 8-10 recites similar limitations. Applicant has not pointed out where these limitations are supported, nor does there appear to be a written description of the limitations in the application as originally filed.

6. Claims 10, 17 & 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Claim 10 recites that the center guard sleeve 72 has an integral tab that extends radially inward to link the center sleeve with the outer sleeve 74. Claim 17, lines 8-10 recites similar limitations. However, the specification does not teach how a tab extending inwardly from the center sleeve 72 could link to the outer sleeve 74.

Claim Rejections - 35 USC § 102

7. Claims 1, 5 & 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Geisthoff et al, US 3,618,340 (Geisthoff). In Fig. 1 Geisthoff shows a guard for covering the union of mating shafts, the guard comprising: an inner guard sleeve 11 linked to a first bell housing 22; an outer guard sleeve 13 linked to a second bell housing 21; and a center guard sleeve 12 radially

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between the inner and outer guard sleeves. In col. 4, lines 2-8, Geisthoff discloses the center guard sleeve 12 is biased (through its connection to the member 4) toward either one of the other guard sleeves to move axially in response to telescopic movement and bridge any gap between the ends of the inner and outer guard sleeves.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2-4, 12-15 & 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Geisthoff in view of Chester, US 2,459,918. In Fig. 1 Geisthoff shows a guard for covering the union of mating shafts, the guard comprising: an inner guard sleeve 11 linked to a first bell housing 22; an outer guard sleeve 13 linked to a second bell housing 21; and a center guard sleeve 12 radially between the inner and outer guard sleeves. In col. 4, lines 2-8, Geisthoff discloses biasing the center guard sleeve toward one of the other guard sleeves, but does not expressly disclose biasing via a spring. Chester teaches in col. 2, lines 20-28 using a spring to facilitate telescopic movement between overlapping sleeves. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the guard of Geisthoff by including a spring similar to that of Chester in order to provide a means to facilitate telescopic movement between the guard sleeves.

Allowable Subject Matter

10. Claims 6, 7 & 16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. Claims 8 & 9 are allowed.

Response to Arguments

12. Applicant's arguments filed August 30, 2005 have been fully considered but they are not persuasive.

a. In response to applicant's argument that Chester is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Chester (see particularly col. 1, lines 9-10) is reasonably pertinent to the particular problem with which the applicant was concerned.

b. Applicant argues that claims 10, 17 & 18 are allowable because claims 10, 17 & 18 as originally presented were indicated as allowable in the previous Office action. However, as noted by applicant himself (see his remarks at pages 11 & 12), claims 10, 17 & 18

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have been altered so that they no longer include all the limitations they originally contained.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (571) 272-7077. The examiner can normally be reached on M-F 9:30 am to 7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Greg Binda', with a stylized flourish at the end.

Greg Binda
Primary Examiner
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